REMARKS

The Office Action dated January 16, 2007, rejected Claims 1-26 under 35 U.S.C. § 103(a) as being unpatentable over Keiser et al. (US 6,505,174) in view of Buist (US 6,408,282). Claims 23 and 25 have been canceled, as their recited subject matter has been incorporated into Claims 1 and 7, respectively. New Claims 27-37 have been added. Claims 1, 7, 11, 12, 14, 21, and 22 have been amended. Claims 1-22, 24, and 26-37 are pending in the application. Applicant respectfully requests reconsideration of the present application and allowance of the pending claims.

Patentability of Claims 1-6, 17, 19, and 24

For convenience of examination, amended Claim 1 reads as follows:

> 1.   A method of providing a published price for a security, wherein the published price is available to a plurality of market participants in a market to execute a trade for the security, comprising:
>
> prior to providing the published price, notifying a set of first computer program entities of a proposed price for buying or selling the security, wherein the proposed price is not executable at the market,
>
> determining whether any of the first computer program entities has offered an improved price for the security, wherein the improved price is higher than the proposed price for buying or lower than the proposed price for selling, and
>
> if an improved price has been offered, providing the improved price as the published price to the plurality of market participants,
>
> wherein the market participants can execute a trade for the security at the published price, and
>
> wherein the notifying, determining, and providing are performed by a second computer program entity executing on a computer.

The disclosures of Keiser and Buist, whether considered individually or in combination, fail to teach or suggest all of the elements recited in Claim 1.

For example, Keiser fails to teach or suggest the element of "prior to providing the published price, notifying a set of first computer program entities of a proposed price for buying

IVEN\25461AM2.DOC

or selling the security," as recited in Claim 1. The Office Action referred to the abstract and Col. 2, lines 57-67, and Col. 3, lines 1-28, of Keiser, but these passages merely teach a known process in which a user obtains and executes a securities trade based on a published buy or sell price. This is acknowledged in the background of the present application at page 1, lines 10-11.

As noted in applicant's last response, Claim 1 uses different terms to refer to a "published price" and a "proposed price." A "published price" is not equivalent to a "proposed price." As now explicitly stated in Claim 1, "the market participants can execute a trade for the security at the published price" while "the proposed price is not executable at the market." Keiser may teach a "published price" for buying or selling a security (see "market price", for example, recited in the abstract), but Keiser does not teach a process of "notifying a set of first computer program entities of a proposed price," as claimed.

In one aspect, a "proposed price" may be determined based on a booked order in an order book, as recited in Claim 24. The Examiner's attention is also directed to Claim 6, wherein prior to notifying of the proposed price, the method includes comparing the current book price to the most recent trade price and deciding to notify of the proposed price when the current book price is different than the most recent trade price. The Office Action did not provide any specific basis for rejecting Claims 6 and 24, nor were any specific reasons advanced for rejecting Claims 2-3, 17, and 19. As for Claims 4 and 5, applicant submits that Keiser fails to teach what is claimed, notwithstanding the Office Action's reference to the abstract, Col. 6, lines 45-65, and Col. 27, lines 10-25 of Keiser.

Returning to Claim 1, Keiser also fails to teach or suggest the elements of "determining whether any of the first computer program entities has offered an improved price for the security, wherein the improved price is higher than the proposed price for buying or lower than the proposed price for selling, and if an improved price has been offered, providing the improved

price as the published price to the plurality of market participants." The Office Action acknowledged the failure of Keiser and sought to rectify the matter by combining Keiser with the disclosure of Buist. However, the disclosure in Buist does not overcome the deficiencies of Keiser.

The Office Action cited Figure 42 of Buist and the corresponding description in the abstract and Col. 12, lines 8-44, Col. 29, line 1, to Col. 30, line 46, as well as Col. 31, lines 24-37, but these portions of Buist neither teach nor suggest the elements of Claim 1 recited above. The system described by Buist provides "*user-to-user* trading capabilities." (Emphasis added.) A user using the interface of Figure 42 negotiates directly with another user (e.g., "Fred D", "Dave K", "Larry 22", etc.) and provides a price directly to the other user. Nowhere is there an "improved price" that is provided "as the published price to the plurality of market participants, wherein the market participants can execute a trade for the security at the published price," as claimed.

The combination of Keiser and Buist (which combination applicant specifically denies) does not support a *prima facie* rejection of Claim 1. Accordingly, Claim 1 should be allowed.

Claims 2-6, 17, 19, and 24 are patentable for at least the same reasons presented above with respect to Claim 1, as well as the additional subject matter they recite which is not taught or suggested by the cited art. Accordingly, Claims 2-6, 17, 19, and 24 should be allowed.

Patentability of Claims 7-11 and 26

Amended Claim 7 reads as follows:

> 7. A method of participating in pricing of a security at a market at which trades are made with respect to the security, comprising:
> receiving a proposed price for the security from a second computer program entity, wherein the second computer program entity is providing the market, and wherein the proposed price is not executable at the market,

determining whether to improve upon the proposed price for the security by offering an improved price that is higher than the proposed price for buying or lower than the proposed price for selling, and

when the determination is affirmative, offering the improved price to the second computer program entity, which improved price can be provided by the second computer program entity as a published price to a plurality of market participants at the market, the published price being executable by the market participants at the market,

wherein the receiving, determining and offering are performed by a first computer program entity executing on a computer.

The disclosures of Keiser and Buist, whether considered individually or in combination, fail to teach or suggest all of the elements recited in Claim 7.

For example, Keiser fails to teach or suggest a method of participating in the pricing of a security that includes the element of "receiving a proposed price for the security from a second computer program entity, wherein the second computer program entity is providing the market, and wherein the proposed price is not executable at the market." As discussed above with respect to Claim 1, a "published price" is not equivalent to a "proposed price." The cited passages in Keiser at Col. 2, lines 57-67, and Col. 3, lines 1-28, merely teach a known process in which a user obtains and executes a securities trade based on a published buy or sell price.

Keiser also fails to teach or suggest the elements of "determining whether to improve upon the proposed price for the security by offering an improved price that is higher than the proposed price for buying or lower than the proposed price for selling, and when the determination is affirmative, offering the improved price to the second computer program entity, which improved price can be provided by the second computer program entity as a published price to a plurality of market participants at the market, the published price being executable by the market participants at the market." Acknowledging deficiencies in Keiser, the Office Action relied on the disclosure of Buist to overcome the deficiencies of Keiser. However, the disclosure Buist (alone or in combination with Keiser) fails to support a *prima facie* rejection of Claim 7.

IVEN\25461AM2.DOC

As with Claim 1, the Office Action cited Figure 42 of Buist and the corresponding description in the abstract and Col. 12, lines 8-44, Col. 29, line 1, to Col. 30, line 46, as well as Col. 31, lines 24-37, but these portions of Buist neither teach nor suggest the elements of Claim 7. As discussed earlier, Buist's provision of "user-to-user trading capabilities" does not teach or suggest an offering an improved price "which improved price can be provided by the second computer program entity as a published price to a plurality of market participants at the market, the published price being executable by the market participants at the market" as claimed in Claim 7.

Applicant contends that a person skilled in the art would not combine the disclosures of Keiser and Buist, but even if they were combined, the disclosures do not teach or suggest all of the elements of Claim 7 and thus cannot support a *prima facie* rejection based on obviousness. Accordingly, Claim 7 should be allowed.

Claims 8-11 and 26 are dependent on Claim 7 and thus are patentable for at least the same reasons presented above with respect to Claim 7. Applicant further submits that Claims 8-11 and 26 are patentable for the additional subject matter they recite, which is not taught or suggested by Keiser and Buist, notwithstanding the cited passages in Keiser at Col. 2, lines 25-35; Col. 3, lines 15-65; Col. 4, lines 5-56; Col. 6, lines 45-55; Col. 21, lines 60-65; and Col. 27, lines 10-25 (cited with respect to Claims 8 and 9). Accordingly, Claims 8-11 and 26 should be allowed.

Claims 12-16, 18, and 20-22 are Patentable Over the Prior Art

Amended Claim 12 reads as follows:

> 12. A method of setting a price for a security, comprising:
> maintaining an order book for a market at which trades are made with respect to the security, said order book including orders to buy or sell specified quantities of the security at respective prices, the lowest sell

order price of the booked orders being the book sell price, the highest buy order price of the booked orders being the book buy price,

engaging in a price discovery procedure with a set of first computer program entities before responding to a request for a current buy or sell price of the security, wherein the price discovery procedure produces a discovered price for the security, and

providing the discovered price as the current buy or sell price of the security to a plurality of market participants participating in the market, the discovered price being higher than the book buy price or lower than the book sell price,

wherein the maintaining, engaging and providing are performed by a second computer program entity executing on a computer.

The Office Action has not established a *prima facie* case of obviousness of Claim 12. Keiser and Buist, alone or in combination, do not teach each and every element of Claim 12.

Notably, Keiser does not teach a method of setting a price for a security that includes, *inter alia*, the elements of "engaging in a price discovery procedure with a set of first computer program entities before responding to a request for a current buy or sell price of the security, wherein the price discovery procedure produces a discovered price for the security" and "providing the discovered price as the current buy or sell price of the security to a plurality of market participants participating in the market, the discovered price being higher than the book buy price or lower than the book sell price."

Conceding deficiencies in Keiser, the Office Action relied on the disclosure of Buist. However, Buist is also deficient with respect to the elements of Claim 12. Buist does not disclose a price discovery procedure, let alone a price discovery procedure that produces a discovered price that is higher than the book buy price or lower than the book sell price which is provided to a plurality of market participants, as claimed in Claim 12.

Thus, even if Keiser and Buist are combined (which applicant denies is proper), the resultant combination does not disclose all of the elements of Claim 12. As a result, Claim 12 is patentable over the teachings of Keiser and Buist and should be allowed.

Claims 13-16, 18, and 20-22 are dependent on Claim 12 and thus are patentable for at least the same reasons presented above with respect to Claim 12. Applicant further submits that Claims 13-16, 18, and 20-22 are patentable for the additional subject matter they recite, which is not taught or suggested by the cited art. The cited passages in Keiser at Col. 2, lines 5-65; Col. 3, lines 15-65; Col. 4, lines 5-56; Col. 6, lines 45-65; and Col. 27, lines 10-25, do not disclose what is claimed. Accordingly, Claims 13-16, 18, and 20-22 should be allowed.

Patentability of New Claims 27-33

New Claim 27 is directed to a computing system for providing a published price for a security to a plurality of market participants at a market at which trades are made with respect to the security. The computing system includes a computing component configured to notify a set of the plurality of market participants of a proposed price for trading the security. The proposed price is not executable at the market. The computing component is configured to notify the set of market participants of the proposed price prior to providing the published price. As claimed, the computing component is further configured to determine whether any of the set of market participants has offered an improved price for the security, wherein the improved price is higher than the proposed price for buying or lower than the proposed price for selling. If an improved price has been offered, the computing component is configured to provide the improved price as the published price to the plurality of market participants, wherein the market participants can execute a trade for the security at the published price.

Applicant has considered the disclosures in Keiser and Buist, and respectfully submits that the cited art does not disclose the computing system claimed in Claim 27. Claim 27 should thus be allowed. Additionally, applicant submits that Keiser and Buist fail to teach the elements disclosed in dependent Claims 28-33. Thus, Claims 28-33 should also be allowed.

IVEN\25461AM2.DOC

Patentability of New Claims 34-37

Claim 34 is directed to a computer-accessible medium containing computer program instructions. The instructions, when executed, cause a computer to participate in pricing of a security by receiving a proposed price for the security from a second computer program entity, wherein the second computer program entity is providing a market at which trades are made with respect to the security, and wherein the proposed price is not executable at the market. Further, the instructions, when executed, cause the computer to determine whether to improve upon the proposed price for the security by offering an improved price that is higher than the proposed price for buying or lower than the proposed price for selling, and when the determination is affirmative, then offer the improved price to the second computer program entity. The improved price can be provided by the second computer program entity as a published price to a plurality of market participants at the market, the published price being executable by the market participants at the market.

The disclosures in Keiser and Buist do not disclose the computer-accessible medium claimed in Claim 34. Claim 34 should thus be allowed. Additionally, Keiser and Buist fail to teach the elements disclosed in dependent Claims 35-37. Thus, Claims 35-37 should also be allowed.

Information Disclosure Statements

Applicant previously submitted information disclosure statements on October 13, 2006, and December 13, 2006. Applicant requests acknowledgment of the same.

CONCLUSION

The disclosures of Keiser and Buist do not support a *prima facie* rejection of Claims 1-22, 24, and 26-37. Allowance of the application at an early date is therefore requested. Should there be any issues needing resolution prior to allowance, the Examiner is invited to contact the undersigned counsel at the telephone number provided below.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}

Kevan L. Morgan
Registration No. 42,015
Direct Dial No. 206.695.1712

KLM:jmb

IVEN\25461AM2.DOC